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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,129	03/26/2004	Christopher Vincent Decker	20,108C	8828

23556 7590 11/30/2005

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EXAMINER

WAGGONER, TIMOTHY R

ART UNIT PAPER NUMBER

3651

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,129

Applicant(s)

DECKER ET AL.

Examiner

Timothy R. Waggoner

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Examiner suggests "wet wipe dispenser".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buck et al USPN 6,523,690.

Buck discloses a wet wipe dispenser comprising:

- (Re claim 1) "a first member" (2 figure 1)
- (Re claim 1) "a second member pivotally connected to said first member" (1 figure 1)
- (Re claim 1) "housing a plurality of folded wet wipes" (line 1 claim 1)
- (Re claim 1) "a top wall with an entrance formed therein" (3,5 figure 1)

(Re claim 1) Buck discloses the container being made of plastic, plastics display semi-rigid characteristics.

Buck does not disclose the dimensions or values for separation force, surface area of entrance, height, or opening width, however the recited dimensions appear to be an obvious design choice and expedient in view of (*Gardner v. TEC Systems, Inc.* 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984)).

“The Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.”

Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buck et al. USPN 6,523,690.

Buck discloses a wet wipe dispenser comprising:

- (Re claim 10) “a first member” (2 figure 1)
- (Re claim 10) “a second member pivotally connected to said first member” (1 figure 1)
- (Re claim 10) “formed from a semi-rigid material” (claim 3)
- (Re claim 10) “housing a plurality of folded wet wipes” (line 1 claim 1)
- (Re claim 10) “a top wall with an entrance formed therein” (3,5 figure 1)

(Re claim 10) Buck discloses the container being made of plastic, plastics display semi-rigid characteristics.

Buck does not disclose the dimensions or values for surface area of entrance, however the recited dimensions appear to be an obvious design choice and expedient in view of (*Gardner v. TEC Systems, Inc.* 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984)).

“The Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.”

Claims 16-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buck et al. USPN 6,523,690.

Buck discloses a wet wipe dispenser comprising:

- (Re claim 16) “a first member” (2 figure 1)
- (Re claim 16) “a second member pivotally connected to said first member” (1 figure 1)
- (Re claim 16) “housing a plurality of folded wet wipes” (line 1 claim 1)
- (Re claim 16) “a top wall with an entrance formed therein” (3,5 figure 1)

(Re claim 16) Buck discloses the container being made of plastic, plastics display semi-rigid characteristics.

Buck does not disclose the dimensions or values for separation force, surface area of entrance, or width of entrance, however the recited dimensions appear to be an obvious design choice and expedient in view of (*Gardner v. TEC Systems, Inc.* 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984)).

“The Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.”

Claims 11-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Buck USPN 6,523,690 in view of Morin et al USPN 6,758,369.

Buck discloses an elliptical entrance in the top wall. (5,3 figure 1)
Buck does not disclose the changing the orientation of his entrance to be askew, Morin Teaches taking a geometric entrance and turning it askew. It would be obvious to turn Buck's entrance askew to make it more aesthetically unique.

Claim 14 and 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck USPN 6,523,690 in view of Chen et al USPN 6,964,726.

Buck discloses dispensing wet wipes.(line 1 claim 1)

Buck does not disclose, “a substrate formed from coform and a liquid composition that contains at least 97% water”. Chen teaches wet wipes being made of

coform and soaked in a solution of mainly water. It would be obvious to use Chens wipes in Bucks dispenser because coform wipes are more durable than paper wipes.

Claim 15 and 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buck USPN 6,523,690 in view of Jackson et al USPN 4,865,221.

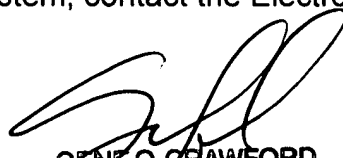
Buck discloses the container is made of plastic. (line 66 Col 3)

Buck does not disclose, "a thermoplastic material". Jackson teaches making a wet wipe dispenser out of thermoplastic. It would be obvious to make Buck's dispenser out of thermoplastic to lower the cost and increase the rate at which the dispenser could be manufactured.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER

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